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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/099,825      | 03/15/2002  | Allen Ray Harrison   | 59.0044             | 2684             |

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EXAMINER

POND, ROBERT M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3625

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/099,825

Applicant(s)

HARRISON ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

2. **Claims 13 and 14 are rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.**

The claims are directed to a process that does nothing more than manipulate an abstract idea. Mere recitation in the preamble (i.e., intended use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea. There is no practical application in the technological arts to support the core invention. For subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. See *In re Alappat* 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond V. Diehr*, 450 U.S. at 192, 209 USPQ at 10). A claim is

limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result: i.e. the method recites a step or act of producing something that is concrete, tangible and useful. See *AT&T v. Excel Communications Inc.*, 172 F.3d at 1358, 50 USPQ2d at 1452.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3. Claims 1-14 are rejected under 35 USC 103(a) as being unpatentable over Henson (patent number 6,167,383), in view of Greef et al. (patent number 6,032,129 hereinafter referred to as "Greef").**

Henson teaches a system and method of providing sales advise on simple and complex products and pricing associated with each product or product configuration. Henson teaches providing the virtual shopper with alert notifications as to potentially problematic product options (please note examiner's interpretation: system is providing advise to the shopper) (e.g. long lead time resulting in shipment delays) (see at least abstract: Fig. 1(18, 28, 32, 34); col. 1, line 15 through col. 3, line 54; col. 6, lines 44-67; col. 8, lines 7-33). Henson further teaches the following:

- Receiving a request from the user regarding two or more elements in the catalog; retrieving information about each of the elements: (see at least Fig. 3A (77, 79, 75); col. 6, lines 18-30).
- Determining if the product is simple; if not simple, then obtain pricing input from a pricing modules: Henson inherently discloses the structure that permits the function to be performed (e.g. displays pricing on simple and complex products as noted above).
- Prompting the user to input additional information based upon the advisory input and pricing input: "Help Me Choose" icon prompts shopper to click; "Lead Time Warning" icon prompts shopper to click (see at least Fig. 3c (76); col. 6, lines 18-67).
- System components: online store, databases, customer relationship management (e.g. customer set or Premier pages), Internet connectivity, web browsers, interface to database (e.g. cart, configurator, check-out) (see at least Fig. 1 (18, 22, 26); col. 4, line 53-col. 6, lines 17; col. 14, lines 35-61); correlation engine- Henson inherently discloses the structure that permits the function to be performed (e.g. computer product requires memory, input devices; long lead-time warning for one system component delays shipment beyond normal shipping dates).

Henson teaches all the above as noted under the 103(a) rejection but does not disclose ranking advisory input. Greef teaches online shopping, browsing

through a catalog and providing customer-centric sales advise strategies. Greef teaches a) affinity as determining numerical strength that represents the strength of an association between the customer persona and the catalog content, b) affinity ordering of content in a shopper's browser, and c) providing navigation advise that locates products, advise on features, function and application advise, and further teaches sort/ranking advise based on customer purchasing criteria data (e.g. low cost, durability) (see at least abstract; col. 3, lines 19-50; col. 4, lines 16-24; col. 5, lines 20-30). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Henson to provide the shopper with rank/sorted advise as taught by Greef, in order to provide customer-centric sales advise strategies, and thereby attract customers to the service.

*Pertaining to apparatus and system Claims 1-12*

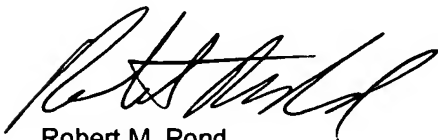
Rejection of Claims 1-12 is based on the same rationale as noted above.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond  
Primary Patent Examiner  
02 February 2005